

COMMITTEE ON ENVIRONMENT

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2042

(Reference to printed bill)

Strike everything after the enacting clause and insert:

"Section 1. Section 15-183, Arizona Revised Statutes, is amended to read:

15-183. Charter schools: application: requirements: immunity: exemptions; renewal of application; reprisal

A. An applicant seeking to establish a charter school shall submit a written application to a proposed sponsor as prescribed in subsection C of this section. The application shall include a detailed business plan for the charter school and may include a mission statement for the charter school, a description of the charter school's organizational structure and the governing body, a financial plan for the first three years of operation of the charter school, a description of the charter school's hiring policy, the name of the charter school's applicant or applicants and requested sponsor, a description of the charter school's facility and the location of the school, a description of the grades being served and an outline of criteria designed to measure the effectiveness of the school.

B. The sponsor of a charter school may contract with a public body, private person or private organization for the purpose of establishing a charter school pursuant to this article.

C. The sponsor of a charter school may be either a school district governing board, the state board of education or the state board for charter schools, subject to the following requirements:

1. For charter schools that submit an application for sponsorship to a school district governing board:

(a) An applicant for a charter school may submit its application to a school district governing board, which shall either accept or reject sponsorship of the charter school within ninety days. An applicant may submit a revised application for reconsideration by the governing board. If the governing board rejects the application, the governing board shall notify the applicant in writing of the reasons for the rejection. The applicant may request, and the governing board may provide, technical assistance to improve the application.

(b) In the first year that a school district is determined to be out of compliance with the uniform system of financial records, within fifteen

1 days of the determination of noncompliance, the school district shall notify  
2 by certified mail each charter school sponsored by the school district that  
3 the school district is out of compliance with the uniform system of financial  
4 records. The notification shall include a statement that if the school  
5 district is determined to be out of compliance for a second consecutive year,  
6 the charter school will be required to transfer sponsorship to another entity  
7 pursuant to subdivision (c) of this paragraph.

8 (c) In the second consecutive year that a school district is  
9 determined to be out of compliance with the uniform system of financial  
10 records, within fifteen days of the determination of noncompliance, the  
11 school district shall notify by certified mail each charter school sponsored  
12 by the school district that the school district is out of compliance with the  
13 uniform system of financial records. A charter school that receives a  
14 notification of school district noncompliance pursuant to this subdivision  
15 shall file a written sponsorship transfer application within forty-five days  
16 with the state board of education, the state board for charter schools or the  
17 school district governing board if the charter school is located within the  
18 geographic boundaries of that school district. A charter school that  
19 receives a notification of school district noncompliance may request an  
20 extension of time to file a sponsorship transfer application and the state  
21 board of education, the state board for charter schools or a school district  
22 governing board may grant an extension of not more than an additional thirty  
23 days if good cause exists for the extension. The state board of education  
24 and the state board for charter schools shall approve a sponsorship transfer  
25 application pursuant to this paragraph.

26 (d) Beginning July 1, 2000, a school district governing board shall  
27 not grant a charter to a charter school that is located outside the  
28 geographic boundaries of that school district.

29 (e) A school district that has been determined to be out of compliance  
30 with the uniform system of financial records during either of the previous  
31 two fiscal years shall not sponsor a new or transferring charter school.

32 2. The applicant may submit the application to the state board of  
33 education or the state board for charter schools. The state board of  
34 education or the state board for charter schools may approve the application  
35 if the application meets the requirements of this article and may approve the  
36 charter if the proposed sponsor determines, within its sole discretion, that  
37 the applicant is sufficiently qualified to operate a charter school. The

1 state board of education or the state board for charter schools may approve  
2 any charter schools transferring charters. The state board of education and  
3 the state board for charter schools shall approve any charter schools  
4 transferring charters from a school district that is determined to be out of  
5 compliance with the uniform system of financial records pursuant to this  
6 section, but may require the charter school to sign a new charter that is  
7 equivalent to the charter awarded by the former sponsor. If the state board  
8 of education or the state board for charter schools rejects the preliminary  
9 application, the state board of education or the state board for charter  
10 schools shall notify the applicant in writing of the reasons for the  
11 rejection and of suggestions for improving the application. An applicant may  
12 submit a revised application for reconsideration by the state board of  
13 education or the state board for charter schools. The applicant may request,  
14 and the state board of education or the state board for charter schools may  
15 provide, technical assistance to improve the application.

16 3. Each applicant seeking to establish a charter school shall submit a  
17 full set of fingerprints to the approving agency for the purpose of obtaining  
18 a state and federal criminal records check pursuant to section 41-1750 and  
19 Public Law 92-544. If an applicant will have direct contact with students,  
20 the applicant shall possess a valid fingerprint clearance card that is issued  
21 pursuant to title 41, chapter 12, article 3.1. The department of public  
22 safety may exchange this fingerprint data with the federal bureau of  
23 investigation. The criminal records check shall be completed before the  
24 issuance of a charter.

25 4. All persons engaged in instructional work directly as a classroom,  
26 laboratory or other teacher or indirectly as a supervisory teacher, speech  
27 therapist or principal shall have a valid fingerprint clearance card that is  
28 issued pursuant to title 41, chapter 12, article 3.1, unless the person is a  
29 volunteer or guest speaker who is accompanied in the classroom by a person  
30 with a valid fingerprint clearance card. A charter school shall not employ a  
31 teacher whose certificate has been revoked for a violation of section 15-507  
32 or 15-550 or for any offense that placed a pupil in danger. All other  
33 personnel shall be fingerprint checked pursuant to section 15-512. Before  
34 employment, the charter school shall make documented, good faith efforts to  
35 contact previous employers of a person to obtain information and  
36 recommendations that may be relevant to a person's fitness for employment as  
37 prescribed in section 15-512, subsection F. The charter school shall notify

1 the department of public safety if the charter school or sponsor receives  
2 credible evidence that a person who possesses a valid fingerprint clearance  
3 card is arrested for or is charged with an offense listed in section  
4 41-1758.03, subsection B. Charter schools may hire personnel that have not  
5 yet received a fingerprint clearance card if proof is provided of the  
6 submission of an application to the department of public safety for a  
7 fingerprint clearance card and if the charter school that is seeking to hire  
8 the applicant does all of the following:

9 (a) Documents in the applicant's file the necessity for hiring and  
10 placement of the applicant before receiving a fingerprint clearance card.

11 (b) Ensures that the department of public safety completes a statewide  
12 criminal ~~history information~~ RECORDS check on the applicant. A statewide  
13 criminal ~~history information~~ RECORDS check shall be completed by the  
14 department of public safety every one hundred twenty days until the date that  
15 the fingerprint check is completed.

16 (c) Obtains references from the applicant's current employer and the  
17 two most recent previous employers except for applicants who have been  
18 employed for at least five years by the applicant's most recent employer.

19 (d) Provides general supervision of the applicant until the date that  
20 the fingerprint card is obtained.

21 (e) Completes a search of criminal records in all local jurisdictions  
22 outside of this state in which the applicant has lived in the previous five  
23 years.

24 (f) Verifies the fingerprint status of the applicant with the  
25 department of public safety.

26 5. If a charter school operator is not already subject to a public  
27 meeting or hearing by the municipality in which the charter school is  
28 located, the operator of a charter school shall conduct a public meeting at  
29 least thirty days before the charter school operator opens a site or sites  
30 for the charter school. The charter school operator shall post notices of  
31 the public meeting in at least three different locations that are within  
32 three hundred feet of the proposed charter school site.

33 6. A PERSON WHO IS EMPLOYED BY A CHARTER SCHOOL OR WHO IS AN APPLICANT  
34 FOR EMPLOYMENT WITH A CHARTER SCHOOL, WHO IS ARRESTED FOR OR CHARGED WITH AN  
35 OFFENSE LISTED IN SECTION 41-1758.03, SUBSECTION B AND WHO DOES NOT  
36 IMMEDIATELY REPORT THE ARREST OR CHARGE TO THE PERSON'S SUPERVISOR OR  
37 POTENTIAL EMPLOYER IS GUILTY OF UNPROFESSIONAL CONDUCT AND THE PERSON SHALL

1 BE IMMEDIATELY DISMISSED FROM EMPLOYMENT WITH THE CHARTER SCHOOL OR  
2 IMMEDIATELY EXCLUDED FROM POTENTIAL EMPLOYMENT WITH THE CHARTER SCHOOL.

3 D. A board that is authorized to sponsor charter schools pursuant to  
4 this article has no legal authority over or responsibility for a charter  
5 school sponsored by a different board. This subsection does not apply to the  
6 state board of education's duty to exercise general supervision over the  
7 public school system pursuant to section 15-203, subsection A, paragraph 1.

8 E. The charter of a charter school shall ensure the following:

9 1. Compliance with federal, state and local rules, regulations and  
10 statutes relating to health, safety, civil rights and insurance. The  
11 department of education shall publish a list of relevant rules, regulations  
12 and statutes to notify charter schools of their responsibilities under this  
13 paragraph.

14 2. That it is nonsectarian in its programs, admission policies and  
15 employment practices and all other operations.

16 3. That it provides a comprehensive program of instruction for at  
17 least a kindergarten program or any grade between grades one and twelve,  
18 except that a school may offer this curriculum with an emphasis on a specific  
19 learning philosophy or style or certain subject areas such as mathematics,  
20 science, fine arts, performance arts or foreign language.

21 4. That it designs a method to measure pupil progress, ~~—~~ toward the  
22 pupil outcomes adopted by the state board of education pursuant to section  
23 15-741.01, including participation in the Arizona instrument to measure  
24 standards test and the nationally standardized norm-referenced achievement  
25 test as designated by the state board and the completion and distribution of  
26 an annual report card as prescribed in chapter 7, article 3 of this title.

27 5. That, except as provided in this article and in its charter, it is  
28 exempt from all statutes and rules relating to schools, governing boards and  
29 school districts.

30 6. That, except as provided in this article, it is subject to the same  
31 financial and electronic data submission requirements as a school district,  
32 including the uniform system of financial records as prescribed in chapter 2,  
33 article 4 of this title, procurement rules as prescribed in section 15-213  
34 and audit requirements. The auditor general shall conduct a comprehensive  
35 review and revision of the uniform system of financial records to ensure that  
36 the provisions of the uniform system of financial records that relate to  
37 charter schools are in accordance with commonly accepted accounting

1 principles used by private business. A school's charter may include  
2 exceptions to the requirements of this paragraph that are necessary as  
3 determined by the district governing board, the state board of education or  
4 the state board for charter schools. The department of education or the  
5 office of the auditor general may conduct financial, program or compliance  
6 audits.

7 7. Compliance with all federal and state laws relating to the  
8 education of children with disabilities in the same manner as a school  
9 district.

10 8. That it provides for a governing body for the charter school that  
11 is responsible for the policy decisions of the charter school.

12 9. That it provides a minimum of one hundred seventy-five  
13 instructional days before June 30 of each fiscal year unless it is operating  
14 on an alternative calendar approved by its sponsor. The superintendent of  
15 public instruction shall adjust the apportionment schedule accordingly to  
16 accommodate a charter school utilizing an alternative calendar.

17 F. The charter of a charter school shall include a description of the  
18 charter school's personnel policies, personnel qualifications and method of  
19 school governance and the specific role and duties of the sponsor of the  
20 charter school. A charter school shall keep on file the resumes of all  
21 current and former employees who provide instruction to pupils at the charter  
22 school. Resumes shall include an individual's educational and teaching  
23 background and experience in a particular academic content subject area. A  
24 charter school shall inform parents and guardians of the availability of the  
25 resume information and shall make the resume information available for  
26 inspection on request of parents and guardians of pupils enrolled at the  
27 charter school. Nothing in this subsection shall be construed to require any  
28 charter school to release personally identifiable information in relation to  
29 any teacher or employee including the teacher's or employee's address,  
30 salary, social security number or telephone number.

31 G. The charter of a charter school may be amended at the request of  
32 the governing body of the charter school and on the approval of the sponsor.

33 H. Charter schools may contract, sue and be sued.

34 I. An approved plan to establish a charter school is effective for  
35 fifteen years from the first day of operation. At the conclusion of the  
36 first fourteen years of operation, the charter school may apply for renewal.  
37 In addition to any other requirements, the application for renewal shall

1 include a detailed business plan for the charter school. The sponsor may  
2 deny the request for renewal if, in its judgment, the charter school has  
3 failed to complete the obligations of the contract or has failed to comply  
4 with this article. A sponsor shall give written notice of its intent not to  
5 renew the charter school's request for renewal to the charter school at least  
6 twelve months before the expiration of the approved plan to allow the charter  
7 school an opportunity to apply to another sponsor to transfer the operation  
8 of the charter school. If the operation of the charter school is transferred  
9 to another sponsor, the fifteen year period of the current charter shall be  
10 maintained. A sponsor shall review a charter at five year intervals and may  
11 revoke a charter at any time if the charter school breaches one or more  
12 provisions of its charter. At least ninety days before the effective date of  
13 the proposed revocation the sponsor shall give written notice to the operator  
14 of the charter school of its intent to revoke the charter. Notice of the  
15 sponsor's intent to revoke the charter shall be delivered personally to the  
16 operator of the charter school or sent by certified mail, return receipt  
17 requested, to the address of the charter school. The notice shall  
18 incorporate a statement of reasons for the proposed revocation of the  
19 charter. The sponsor shall allow the charter school at least ninety days to  
20 correct the problems associated with the reasons for the proposed revocation  
21 of the charter. The final determination of whether to revoke the charter  
22 shall be made at a public hearing called for such purpose.

23 J. After renewal of the charter at the end of the fifteen year period  
24 described in subsection I of this section, the charter may be renewed for  
25 successive periods of fifteen years if the charter school and its sponsor  
26 deem that the school is in compliance with its own charter and this article.

27 K. A charter school that is sponsored by the state board of education  
28 or the state board for charter schools may not be located on the property of  
29 a school district unless the district governing board grants this authority.

30 L. A governing board or a school district employee who has control  
31 over personnel actions shall not take unlawful reprisal against another  
32 employee of the school district because the employee is directly or  
33 indirectly involved in an application to establish a charter school. A  
34 governing board or a school district employee shall not take unlawful  
35 reprisal against an educational program of the school or the school district  
36 because an application to establish a charter school proposes the conversion  
37 of all or a portion of the educational program to a charter school. ~~As used~~

1 ~~in~~ FOR THE PURPOSES OF this subsection, "unlawful reprisal" means an action  
2 that is taken by a governing board or a school district employee as a direct  
3 result of a lawful application to establish a charter school and that is  
4 adverse to another employee or an education program and:

5 1. With respect to a school district employee, results in one or more  
6 of the following:

7 (a) Disciplinary or corrective action.

8 (b) Detail, transfer or reassignment.

9 (c) Suspension, demotion or dismissal.

10 (d) An unfavorable performance evaluation.

11 (e) A reduction in pay, benefits or awards.

12 (f) Elimination of the employee's position without a reduction in  
13 force by reason of lack of monies or work.

14 (g) Other significant changes in duties or responsibilities that are  
15 inconsistent with the employee's salary or employment classification.

16 2. With respect to an educational program, results in one or more of  
17 the following:

18 (a) Suspension or termination of the program.

19 (b) Transfer or reassignment of the program to a less favorable  
20 department.

21 (c) Relocation of the program to a less favorable site within the  
22 school or school district.

23 (d) Significant reduction or termination of funding for the program.

24 M. Charter schools shall secure insurance for liability and property  
25 loss. The governing body of a charter school that is sponsored by the state  
26 board of education or the state board for charter schools may enter into an  
27 intergovernmental agreement or otherwise contract to participate in an  
28 insurance program offered by a risk retention pool established pursuant to  
29 section 11-952.01 or 41-621.01 or the charter school may secure its own  
30 insurance coverage. The pool may charge the requesting charter school  
31 reasonable fees for any services it performs in connection with the insurance  
32 program.

33 N. Charter schools do not have the authority to acquire property by  
34 eminent domain.

35 O. A sponsor, including members, officers and employees of the  
36 sponsor, is immune from personal liability for all acts done and actions  
37 taken in good faith within the scope of its authority.



1           P. Charter school sponsors and this state are not liable for the debts  
2 or financial obligations of a charter school or persons who operate charter  
3 schools.

4           Q. The sponsor of a charter school shall establish procedures to  
5 conduct administrative hearings on determination by the sponsor that grounds  
6 exist to revoke a charter. Procedures for administrative hearings shall be  
7 similar to procedures prescribed for adjudicative proceedings in title 41,  
8 chapter 6, article 10. Except as provided in section 41-1092.08, subsection  
9 H, final decisions of the state board of education and the state board for  
10 charter schools from hearings conducted pursuant to this subsection are  
11 subject to judicial review pursuant to title 12, chapter 7, article 6.

12           R. The sponsoring entity of a charter school shall have oversight and  
13 administrative responsibility for the charter schools that it sponsors.

14           S. Charter schools may pledge, assign or encumber their assets to be  
15 used as collateral for loans or extensions of credit.

16           T. All property accumulated by a charter school shall remain the  
17 property of the charter school.

18           U. Charter schools may not locate a school on property that is less  
19 than one-fourth mile from agricultural land regulated pursuant to section  
20 3-365, except that the owner of the agricultural land may agree to comply  
21 with the buffer zone requirements of section 3-365. If the owner agrees in  
22 writing to comply with the buffer zone requirements and records the agreement  
23 in the office of the county recorder as a restrictive covenant running with  
24 the title to the land, the charter school may locate a school within the  
25 affected buffer zone. The agreement may include any stipulations regarding  
26 the charter school, including conditions for future expansion of the school  
27 and changes in the operational status of the school that will result in a  
28 breach of the agreement.

29           V. A transfer of a charter to another sponsor, a transfer of a charter  
30 school site to another sponsor or a transfer of a charter school site to a  
31 different charter shall be completed before the beginning of the fiscal year  
32 that the transfer is scheduled to become effective. An entity that sponsors  
33 charter schools may accept a transferring school after the beginning of the  
34 fiscal year if the transfer is approved by the superintendent of public  
35 instruction. The superintendent of public instruction shall have the  
36 discretion to consider each transfer during the fiscal year on a case by case  
37 basis. If a charter school is sponsored by a school district that is

1 determined to be out of compliance with this title, the uniform system of  
2 financial records or any other state or federal law, the charter school may  
3 transfer to another sponsoring entity at any time during the fiscal year.

4 W. The sponsoring entity may not charge any fees to a charter school  
5 that it sponsors unless the sponsor has provided services to the charter  
6 school and the fees represent the full value of those services provided by  
7 the sponsor. On request, the value of the services provided by the sponsor  
8 to the charter school shall be demonstrated to the department of education.

9 Sec. 2. Section 15-550, Arizona Revised Statutes, is amended to read:

10 15-550. Unprofessional conduct; penalty

11 A. A teacher who has been convicted of a dangerous crime against  
12 children as defined in section 13-604.01 or has been convicted of a violation  
13 of section 13-1404 or 13-1406 in which the victim was a minor or section  
14 13-1405 or an act committed in another state or territory which if committed  
15 in this state would have been a dangerous crime against children or a  
16 violation of section 13-1404 OR 13-1406 in which the victim was a minor or a  
17 violation of section 13-1405 ~~or 13-1406~~ is guilty of unprofessional conduct  
18 and the teacher's certificate shall be revoked permanently immediately on  
19 notification of conviction by the clerk of the court or the magistrate.

20 B. A teacher who has been convicted of a preparatory offense as  
21 prescribed in section 13-1001 of any of the offenses prescribed in subsection  
22 A of this section or any crime that requires the teacher to register as a sex  
23 offender is guilty of unprofessional conduct and the teacher's certificate  
24 shall be permanently revoked on notification of the conviction by a court of  
25 competent jurisdiction.

26 C. A PERSON WHO IS EMPLOYED BY A SCHOOL DISTRICT OR WHO IS AN  
27 APPLICANT FOR EMPLOYMENT WITH A SCHOOL DISTRICT, WHO IS ARRESTED FOR OR  
28 CHARGED WITH AN OFFENSE LISTED IN SECTION 41-1758.03, SUBSECTION B AND WHO  
29 DOES NOT IMMEDIATELY REPORT THE ARREST OR CHARGE TO THE PERSON'S SUPERVISOR  
30 OR POTENTIAL EMPLOYER IS GUILTY OF UNPROFESSIONAL CONDUCT AND THE PERSON  
31 SHALL BE IMMEDIATELY DISMISSED FROM EMPLOYMENT WITH THE SCHOOL DISTRICT OR  
32 IMMEDIATELY EXCLUDED FROM POTENTIAL EMPLOYMENT WITH THE SCHOOL DISTRICT.

33 Sec. 3. Section 41-1750, Arizona Revised Statutes, is amended to read:

34 41-1750. Central state repository; department of public safety;  
35 duties; funds; accounts; definitions

36 A. The department is responsible for the effective operation of the  
37 central state repository in order to collect, store and disseminate complete

1 and accurate Arizona criminal history records and related criminal justice  
2 information. The department shall:

3 1. Procure from all criminal justice agencies in this state accurate  
4 and complete personal identification data, fingerprints, charges, process  
5 control numbers and dispositions and such other information as may be  
6 pertinent to all persons who have been charged with, arrested for, convicted  
7 of or summoned to court as a criminal defendant for a felony offense or an  
8 offense involving domestic violence as defined in section 13-3601 or a  
9 violation of title 13, chapter 14 or title 28, chapter 4.

10 2. Collect information concerning the number and nature of offenses  
11 known to have been committed in this state and of the legal steps taken in  
12 connection with these offenses, such other information that is useful in the  
13 study of crime and in the administration of criminal justice and all other  
14 information deemed necessary to operate the statewide uniform crime reporting  
15 program and to cooperate with the federal government uniform crime reporting  
16 program.

17 3. Collect information concerning criminal offenses that manifest  
18 evidence of prejudice based on race, color, religion, national origin, sexual  
19 orientation, gender or disability.

20 4. Cooperate with the central state repositories in other states and  
21 with the appropriate agency of the federal government in the exchange of  
22 information pertinent to violators of the law.

23 5. Ensure the rapid exchange of information concerning the commission  
24 of crime and the detection of violators of the law among the criminal justice  
25 agencies of other states and of the federal government.

26 6. Furnish assistance to peace officers throughout this state in crime  
27 scene investigation for the detection of latent fingerprints and in the  
28 comparison of latent fingerprints.

29 7. Conduct periodic operational audits of the central state repository  
30 and of a representative sample of other agencies that contribute records to  
31 or receive criminal justice information from the central state repository or  
32 through the Arizona criminal justice information system.

33 8. Establish and enforce the necessary physical and system safeguards  
34 to ensure that the criminal justice information maintained and disseminated  
35 by the central state repository or through the Arizona criminal justice  
36 information system is appropriately protected from unauthorized inquiry,  
37 modification, destruction or dissemination as required by this section.

1           9. Aid and encourage coordination and cooperation among criminal  
2 justice agencies through the statewide and interstate exchange of criminal  
3 justice information.

4           10. Provide training and proficiency testing on the use of criminal  
5 justice information to agencies receiving information from the central state  
6 repository or through the Arizona criminal justice information system.

7           11. Operate and maintain the Arizona automated fingerprint  
8 identification system established pursuant to section 41-2411.

9           12. Provide criminal history record information to the fingerprinting  
10 division for the purpose of screening applicants for fingerprint clearance  
11 cards.

12           B. The director may establish guidelines for the submission and  
13 retention of criminal justice information as deemed useful for the study or  
14 prevention of crime and for the administration of criminal justice.

15           C. The chief officers of criminal justice agencies of this state or  
16 its political subdivisions shall provide to the central state repository  
17 fingerprints and information concerning personal identification data,  
18 descriptions, crimes for which persons are arrested, process control numbers  
19 and dispositions and such other information as may be pertinent to all  
20 persons who have been charged with, arrested for, convicted of or summoned to  
21 court as criminal defendants for felony offenses or offenses involving  
22 domestic violence as defined in section 13-3601 or violations of title 13,  
23 chapter 14 or title 28, chapter 4 that have occurred in this state.

24           D. The chief officers of law enforcement agencies of this state or its  
25 political subdivisions shall provide to the department such information as  
26 necessary to operate the statewide uniform crime reporting program and to  
27 cooperate with the federal government uniform crime reporting program.

28           E. The chief officers of criminal justice agencies of this state or  
29 its political subdivisions shall comply with the training and proficiency  
30 testing guidelines as required by the department to comply with the federal  
31 national crime information center mandates.

32           F. The chief officers of criminal justice agencies of this state or  
33 its political subdivisions also shall provide to the department information  
34 concerning crimes that manifest evidence of prejudice based on race, color,  
35 religion, national origin, sexual orientation, gender or disability.

36           G. The director shall authorize the exchange of criminal justice  
37 information between the central state repository, or through the Arizona

1 criminal justice information system, whether directly or through any  
2 intermediary, only as follows:

3 1. With criminal justice agencies of the federal government, Indian  
4 tribes, this state or its political subdivisions and other states, on request  
5 by the chief officers of such agencies or their designated representatives,  
6 specifically for the purposes of the administration of criminal justice and  
7 for evaluating the fitness of current and prospective criminal justice  
8 employees.

9 2. With any noncriminal justice agency pursuant to a statute,  
10 ordinance or executive order that specifically authorizes the noncriminal  
11 justice agency to receive criminal history record information for the purpose  
12 of evaluating the fitness of current or prospective licensees, employees,  
13 contract employees or volunteers, on submission of the subject's fingerprints  
14 and the prescribed fee. Each statute, ordinance, or executive order that  
15 authorizes noncriminal justice agencies to receive criminal history record  
16 information for these purposes shall identify the specific categories of  
17 licensees, employees, contract employees or volunteers, and shall require  
18 that fingerprints of the specified individuals be submitted in conjunction  
19 with such requests for criminal history record information.

20 3. With the board of fingerprinting for the purpose of conducting good  
21 cause exceptions pursuant to section 41-619.55.

22 4. With any individual for any lawful purpose on submission of the  
23 subject of record's fingerprints and the prescribed fee.

24 5. With the governor, if the governor elects to become actively  
25 involved in the investigation of criminal activity or the administration of  
26 criminal justice in accordance with the governor's constitutional duty to  
27 ensure that the laws are faithfully executed or as needed to carry out the  
28 other responsibilities of the governor's office.

29 6. With regional computer centers that maintain authorized  
30 computer-to-computer interfaces with the department, that are criminal  
31 justice agencies or under the management control of a criminal justice agency  
32 and that are established by a statute, ordinance or executive order to  
33 provide automated data processing services to criminal justice agencies  
34 specifically for the purposes of the administration of criminal justice or  
35 evaluating the fitness of regional computer center employees who have access  
36 to the Arizona criminal justice information system and the national crime  
37 information center system.

1           7. With an individual who asserts a belief that criminal history  
2 record information relating to the individual is maintained by an agency or  
3 in an information system in this state that is subject to this section. On  
4 submission of fingerprints, the individual may review this information for  
5 the purpose of determining its accuracy and completeness by making  
6 application to the agency operating the system. Rules adopted under this  
7 section shall include provisions for administrative review and necessary  
8 correction of any inaccurate or incomplete information. The review and  
9 challenge process authorized by this paragraph is limited to criminal history  
10 record information.

11           8. With individuals and agencies pursuant to a specific agreement with  
12 a criminal justice agency to provide services required for the administration  
13 of criminal justice pursuant to that agreement if the agreement specifically  
14 authorizes access to data, limits the use of data to purposes for which given  
15 and ensures the security and confidentiality of the data consistent with this  
16 section.

17           9. With individuals and agencies for the express purpose of research,  
18 evaluative or statistical activities pursuant to an agreement with a criminal  
19 justice agency if the agreement specifically authorizes access to data,  
20 limits the use of data to research, evaluative or statistical purposes and  
21 ensures the confidentiality and security of the data consistent with this  
22 section.

23           10. With the auditor general for audit purposes.

24           11. With central state repositories of other states for noncriminal  
25 justice purposes for dissemination in accordance with the laws of those  
26 states.

27           12. On submission of the fingerprint card, with the department of  
28 economic security to provide criminal history record information on  
29 prospective adoptive parents for the purpose of conducting the preadoption  
30 certification investigation under title 8, chapter 1, article 1 if the  
31 department of economic security is conducting the investigation, or with an  
32 agency or a person appointed by the court, if the agency or person is  
33 conducting the investigation. Information received under this paragraph  
34 shall only be used for the purposes of the preadoption certification  
35 investigation.

36           13. With the department of economic security and the superior court for  
37 the purpose of evaluating the fitness of custodians or prospective custodians

1 of juveniles, including parents, relatives and prospective guardians.  
2 Information received under this paragraph shall only be used for the purposes  
3 of that evaluation. The information shall be provided on submission of  
4 either:

5 (a) The fingerprint card.

6 (b) The name, date of birth and social security number of the person.

7 14. On submission of a fingerprint card, provide criminal history  
8 record information to the superior court for the purpose of evaluating the  
9 fitness of investigators appointed under section 14-5303 or 14-5407, or  
10 guardians appointed under section 14-5206.

11 15. With the supreme court to provide criminal history record  
12 information on prospective fiduciaries pursuant to section 14-5651.

13 16. With the department of juvenile corrections to provide criminal  
14 history record information pursuant to section 41-2814.

15 17. On submission of the fingerprint card, provide criminal history  
16 record information to the Arizona peace officer standards and training board  
17 or a board certified law enforcement academy to evaluate the fitness of  
18 prospective cadets.

19 18. With the internet sex offender web site database established  
20 pursuant to section 13-3827.

21 19. With licensees of the United States nuclear regulatory commission  
22 for the purpose of determining whether an individual should be granted  
23 unescorted access to the protected area of a commercial nuclear generating  
24 station on submission of the subject of record's fingerprints and the  
25 prescribed fee.

26 20. With the state board of education for the purpose of evaluating the  
27 fitness of a certificated teacher or administrator or an applicant for a  
28 teaching or an administrative certificate provided that the state board of  
29 education or its employees or agents have reasonable suspicion that the  
30 certificated person engaged in conduct that would be a criminal violation of  
31 the laws of this state or was involved in immoral or unprofessional conduct  
32 or that the applicant engaged in conduct that would warrant disciplinary  
33 action if the applicant were certificated at the time of the alleged conduct.  
34 The information shall be provided on the submission of either:

35 (a) The fingerprint card.

36 (b) The name, date of birth and social security number of the person.

1           21. WITH EACH SCHOOL DISTRICT AND CHARTER SCHOOL IN THIS STATE. THE  
2 DEPARTMENT OF PUBLIC SAFETY SHALL PROVIDE EACH SCHOOL DISTRICT AND CHARTER  
3 SCHOOL IN THIS STATE WITH A DAILY UPDATED LIST OF PERSONS WHO HAVE BEEN  
4 FINGERPRINTED AND WHO HAVE BEEN ARRESTED FOR OR CONVICTED OF A VIOLATION OF  
5 SECTION 41-1758.03, SUBSECTION B OR WHO HAVE BEEN INVOLVED IN IMMORAL OR  
6 UNPROFESSIONAL CONDUCT TO ALLOW SCHOOL DISTRICTS AND CHARTER SCHOOLS TO  
7 DETERMINE WHETHER EMPLOYEES OF THE SCHOOL DISTRICT OR CHARTER SCHOOL HAVE  
8 BEEN ARRESTED FOR OR CONVICTED OF A VIOLATION OF SECTION 41-1758.03,  
9 SUBSECTION B OR WERE INVOLVED IN IMMORAL OR UNPROFESSIONAL CONDUCT.

10           H. The director shall adopt rules necessary to execute this section.

11           I. The director, in the manner prescribed by law, shall remove and  
12 destroy records that the director determines are no longer of value in the  
13 detection or prevention of crime.

14           J. The director shall establish a fee in an amount necessary to cover  
15 the cost of federal noncriminal justice fingerprint processing for criminal  
16 history record information checks that are authorized by law for noncriminal  
17 justice employment, licensing or other lawful purposes. An additional fee  
18 may be charged by the department for state noncriminal justice fingerprint  
19 processing. Fees submitted to the department for state noncriminal justice  
20 fingerprint processing are not refundable.

21           K. The director shall establish a fee in an amount necessary to cover  
22 the cost of processing copies of department reports, eight by ten inch black  
23 and white photographs or eight by ten inch color photographs of traffic  
24 accident scenes.

25           L. Except as provided in subsection O of this section, each agency  
26 authorized by this section may charge a fee, in addition to any other fees  
27 prescribed by law, in an amount necessary to cover the cost of state and  
28 federal noncriminal justice fingerprint processing for criminal history  
29 record information checks that are authorized by law for noncriminal justice  
30 employment, licensing or other lawful purposes.

31           M. A fingerprint account within the records processing fund is  
32 established for the purpose of separately accounting for the collection and  
33 payment of fees for noncriminal justice fingerprint processing by the  
34 department. Monies collected for this purpose shall be credited to the  
35 account, and payments by the department to the United States for federal  
36 noncriminal justice fingerprint processing shall be charged against the  
37 account. Monies in the account not required for payment to the United States



1 shall be used by the department in support of the department's noncriminal  
2 justice fingerprint processing duties. At the end of each fiscal year, any  
3 balance in the account not required for payment to the United States or to  
4 support the department's noncriminal justice fingerprint processing duties  
5 reverts to the state general fund.

6 N. A records processing fund is established for the purpose of  
7 separately accounting for the collection and payment of fees for department  
8 reports and photographs of traffic accident scenes processed by the  
9 department. Monies collected for this purpose shall be credited to the fund  
10 and shall be used by the department in support of functions related to  
11 providing copies of department reports and photographs. At the end of each  
12 fiscal year, any balance in the fund not required for support of the  
13 functions related to providing copies of department reports and photographs  
14 reverts to the state general fund.

15 O. The department of economic security may pay from appropriated  
16 monies the cost of federal fingerprint processing or federal criminal history  
17 record information checks that are authorized by law for employees and  
18 volunteers of the department, guardians pursuant to section 46-134,  
19 subsection A, paragraph 15, the licensing of foster parents or the  
20 certification of adoptive parents.

21 P. The director shall adopt rules that provide for:

22 1. The collection and disposition of fees pursuant to this section.

23 2. The refusal of service to those agencies that are delinquent in  
24 paying these fees.

25 Q. The director shall ensure that the following limitations are  
26 observed regarding dissemination of criminal justice information obtained  
27 from the central state repository or through the Arizona criminal justice  
28 information system:

29 1. Any criminal justice agency that obtains criminal justice  
30 information from the central state repository or through the Arizona criminal  
31 justice information system assumes responsibility for the security of the  
32 information and shall not secondarily disseminate this information to any  
33 individual or agency not authorized to receive this information directly from  
34 the central state repository or originating agency.

35 2. Dissemination to an authorized agency or individual may be  
36 accomplished by a criminal justice agency only if the dissemination is for

1 criminal justice purposes in connection with the prescribed duties of the  
2 agency and not in violation of this section.

3 3. Criminal history record information disseminated to noncriminal  
4 justice agencies or to individuals shall be used only for the purposes for  
5 which it was given. Secondary dissemination is prohibited unless otherwise  
6 authorized by law.

7 4. The existence or nonexistence of criminal history record  
8 information shall not be confirmed to any individual or agency not authorized  
9 to receive the information itself.

10 5. Criminal history record information to be released for noncriminal  
11 justice purposes to agencies of other states shall only be released to the  
12 central state repositories of those states for dissemination in accordance  
13 with the laws of those states.

14 6. Criminal history record information shall be released to  
15 noncriminal justice agencies of the federal government pursuant to the terms  
16 of the federal security clearance information act (P.L. 99-169).

17 R. This section and the rules adopted under this section apply to all  
18 agencies and individuals collecting, storing or disseminating criminal  
19 justice information processed by manual or automated operations if the  
20 collection, storage or dissemination is funded in whole or in part with  
21 monies made available by the law enforcement assistance administration after  
22 July 1, 1973, pursuant to title I of the crime control act of 1973, and to  
23 all agencies that interact with or receive criminal justice information from  
24 or through the central state repository and through the Arizona criminal  
25 justice information system.

26 S. This section does not apply to criminal history record information  
27 contained in:

28 1. Posters, arrest warrants, announcements or lists for identifying or  
29 apprehending fugitives or wanted persons.

30 2. Original records of entry such as police blotters maintained by  
31 criminal justice agencies, compiled chronologically and required by law or  
32 long-standing custom to be made public if these records are organized on a  
33 chronological basis.

34 3. Transcripts or records of judicial proceedings if released by a  
35 court or legislative or administrative proceedings.

36 4. Announcements of executive clemency or pardon.

1           5. Computer databases, other than the Arizona criminal justice  
2 information system, that are specifically designed for community notification  
3 of an offender's presence in the community pursuant to section 13-3825 or for  
4 public informational purposes authorized by section 13-3827.

5           T. Nothing in this section prevents a criminal justice agency from  
6 disclosing to the public criminal history record information that is  
7 reasonably contemporaneous to the event for which an individual is currently  
8 within the criminal justice system, including information noted on traffic  
9 accident reports concerning citations, blood alcohol tests, intoxilyzer tests  
10 or arrests made in connection with the traffic accident being investigated.

11           U. In order to ensure that complete and accurate criminal history  
12 record information is maintained and disseminated by the central state  
13 repository:

14           1. The arresting authority shall take legible fingerprints of all  
15 persons arrested for offenses specified in subsection C of this section and,  
16 within ten days of the arrest, the arresting authority shall forward the  
17 fingerprints to the department in the manner or form required by the  
18 department. On the issuance and service of a summons for a defendant who is  
19 charged with a felony offense, a violation of title 13, chapter 14 or title  
20 28, chapter 4 or a domestic violence offense as defined in section 13-3601,  
21 the court shall order that the defendant be fingerprinted by the appropriate  
22 law enforcement agency and that the defendant appear at a designated time and  
23 place for fingerprinting. At the initial appearance or on the arraignment of  
24 a summoned defendant who is charged with a felony offense, a violation of  
25 title 13, chapter 14 or title 28, chapter 4 or a domestic violence offense as  
26 defined in section 13-3601, the court shall order that the defendant be  
27 fingerprinted at a designated time and place by the appropriate law  
28 enforcement agency if the court has reasonable cause to believe that the  
29 defendant was not previously fingerprinted.

30           2. In every criminal case in which the defendant is incarcerated or  
31 fingerprinted as a result of the charge, an originating law enforcement  
32 agency or prosecutor, within forty days of the disposition, shall advise the  
33 central state repository of all dispositions concerning the termination of  
34 criminal proceedings against an individual arrested for an offense specified  
35 in subsection C of this section. This information shall be submitted on a  
36 form or in a manner required by the department.

1           3. Dispositions resulting from formal proceedings in a court having  
2 jurisdiction in a criminal action against an individual who is arrested for  
3 an offense specified in subsection C of this section or section 8-341,  
4 subsection T shall be reported to the central state repository within forty  
5 days of the date of the disposition. This information shall be submitted on  
6 a form or in a manner specified by rules approved by the supreme court.

7           4. The state department of corrections or the department of juvenile  
8 corrections, within forty days, shall advise the central state repository  
9 that it has assumed supervision of a person convicted of an offense specified  
10 in subsection C of this section or section 8-341, subsection T. The state  
11 department of corrections or the department of juvenile corrections shall  
12 also report dispositions that occur thereafter to the central state  
13 repository within forty days of the date of the dispositions. This  
14 information shall be submitted on a form or in a manner required by the  
15 department of public safety.

16           5. Each criminal justice agency shall query the central state  
17 repository before dissemination of any criminal history record information to  
18 ensure the completeness of the information. Inquiries shall be made before  
19 any dissemination except in those cases in which time is of the essence and  
20 the repository is technically incapable of responding within the necessary  
21 time period. If time is of the essence, the inquiry shall still be made and  
22 the response shall be provided as soon as possible.

23           V. The director shall adopt rules specifying that any agency that  
24 collects, stores or disseminates criminal justice information that is subject  
25 to this section shall establish effective security measures to protect the  
26 information from unauthorized access, disclosure, modification or  
27 dissemination. The rules shall include reasonable safeguards to protect the  
28 affected information systems from fire, flood, wind, theft, sabotage or other  
29 natural or man-made hazards or disasters.

30           W. The department shall make available to agencies that contribute to,  
31 or receive criminal justice information from, the central state repository or  
32 through the Arizona criminal justice information system a continuing training  
33 program in the proper methods for collecting, storing and disseminating  
34 information in compliance with this section.

35           X. Nothing in this section creates a cause of action or a right to  
36 bring an action including an action based on discrimination due to sexual  
37 orientation.

1           Y. For the purposes of this section:

2           1. "Administration of criminal justice" means performance of the  
3           detection, apprehension, detention, pretrial release, posttrial release,  
4           prosecution, adjudication, correctional supervision or rehabilitation of  
5           criminal offenders. Administration of criminal justice includes enforcement  
6           of criminal traffic offenses and civil traffic violations, including parking  
7           violations, when performed by a criminal justice agency. Administration of  
8           criminal justice also includes criminal identification activities and the  
9           collection, storage and dissemination of criminal history record information.

10          2. "Administrative records" means records that contain adequate and  
11          proper documentation of the organization, functions, policies, decisions,  
12          procedures and essential transactions of the agency and that are designed to  
13          furnish information to protect the rights of this state and of persons  
14          directly affected by the agency's activities.

15          3. "Arizona criminal justice information system" or "system" means the  
16          statewide information system managed by the director for the collection,  
17          processing, preservation, dissemination and exchange of criminal justice  
18          information and includes the electronic equipment, facilities, procedures and  
19          agreements necessary to exchange this information.

20          4. "Central state repository" means the central location within the  
21          department for the collection, storage and dissemination of Arizona criminal  
22          history records and related criminal justice information.

23          5. "Criminal history record information" and "criminal history record"  
24          means information that is collected by criminal justice agencies on  
25          individuals and that consists of identifiable descriptions and notations of  
26          arrests, detentions, indictments and other formal criminal charges, and any  
27          disposition arising from those actions, sentencing, formal correctional  
28          supervisory action and release. Criminal history record information and  
29          criminal history record do not include identification information to the  
30          extent that the information does not indicate involvement of the individual  
31          in the criminal justice system or information relating to juveniles unless  
32          they have been adjudicated as adults.

33          6. "Criminal justice agency" means either:

34           (a) A court at any governmental level with criminal or equivalent  
35           jurisdiction, including courts of any foreign sovereignty duly recognized by  
36           the federal government.

1 (b) A government agency or subunit of a government agency that is  
2 specifically authorized to perform as its principal function the  
3 administration of criminal justice pursuant to a statute, ordinance or  
4 executive order and that allocates more than fifty per cent of its annual  
5 budget to the administration of criminal justice. This subdivision includes  
6 agencies of any foreign sovereignty duly recognized by the federal  
7 government.

8 7. "Criminal justice information" means information that is collected  
9 by criminal justice agencies and that is needed for the performance of their  
10 legally authorized and required functions, such as criminal history record  
11 information, citation information, stolen property information, traffic  
12 accident reports, wanted persons information and system network log  
13 searches. Criminal justice information does not include the administrative  
14 records of a criminal justice agency.

15 8. "Disposition" means information disclosing that a decision has been  
16 made not to bring criminal charges or that criminal proceedings have been  
17 concluded or information relating to sentencing, correctional supervision,  
18 release from correctional supervision, the outcome of an appellate review of  
19 criminal proceedings or executive clemency.

20 9. "Dissemination" means the written, oral or electronic communication  
21 or transfer of criminal justice information to individuals and agencies other  
22 than the criminal justice agency that maintains the information.  
23 Dissemination includes the act of confirming the existence or nonexistence of  
24 criminal justice information.

25 10. "Management control":

26 (a) Means the authority to set and enforce:

27 (i) Priorities regarding development and operation of criminal justice  
28 information systems and programs.

29 (ii) Standards for the selection, supervision and termination of  
30 personnel involved in the development of criminal justice information systems  
31 and programs and in the collection, maintenance, analysis and dissemination  
32 of criminal justice information.

33 (iii) Policies governing the operation of computers, circuits and  
34 telecommunications terminals used to process criminal justice information to  
35 the extent that the equipment is used to process, store or transmit criminal  
36 justice information.

1           (b) Includes the supervision of equipment, systems design, programming  
2           and operating procedures necessary for the development and implementation of  
3           automated criminal justice information systems.

4           11. "Process control number" means the Arizona automated fingerprint  
5           identification system number that attaches to each arrest event at the time  
6           of fingerprinting and that is assigned to the arrest fingerprint card,  
7           disposition form and other pertinent documents.

8           12. "Secondary dissemination" means the dissemination of criminal  
9           justice information from an individual or agency that originally obtained the  
10          information from the central state repository or through the Arizona criminal  
11          justice information system to another individual or agency.

12          13. "Sexual orientation" means consensual homosexuality or  
13          heterosexuality.

14          14. "Subject of record" means the person who is the primary subject of  
15          a criminal justice record."

16 Amend title to conform

and, as so amended, it do pass

RAY BARNES  
Chairman

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2/27/08  
H:jmb

2042br  
02/21/2008  
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